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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/709,145   | 04/15/2004  | Yngve HAGBERG        | 07589.0159.PCUS00   | 3144             |
| 28694  | 7590        | 12/07/2006           | EXAMINER            |                  |
| NOVAK DRUCE & QUIGG, LLP<br>1300 EYE STREET NW<br>400 EAST TOWER<br>WASHINGTON, DC 20005 |             |                      | KAPLAN, HAL IRA     |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 2836                |                  |

DATE MAILED: 12/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/709,145

Applicant(s)

HAGBERG ET AL.

Examiner

Hal I. Kaplan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 August 2006 and 25 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 and 9-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 9-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☒ Certified copies of the priority documents have been received in Application No. PCT/SE02/01790.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. <u>20061130</u> .                           |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application  |
| Paper No(s)/Mail Date <u>5/11/06</u> .   | 6) <input type="checkbox"/> Other: _____                           |

## DETAILED ACTION

### *Drawings*

1. The drawings were received on August 4, 2006. These drawings are accepted.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-3 and 9-21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 1, 11, and 16 recite that the axial positions of the switch are with respect to a third, neutral position. The specification does not recite or disclose a third, neutral position. This constitutes new matter. Claims 2, 3, 9, 10, 12-15 and 17-21 inherit this deficiency.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by the US patent of Del Rosso (5,736,696) in view of the US patent of Rayburn (3,984,797).

As to claim 1, Del Rosso, drawn to a combined automotive light switch, discloses a rotary light switch (3) for vehicles configured to be oriented between a plurality of fixed rotational positions for operating a plurality of different lighting groups (0,I,II) (see column 3, lines 37-49) and a plurality of spring-loaded axial positions also for operating a plurality of different lighting groups (see column 4, lines 3-21), and wherein a first axial position is activated by a pushing movement and a second axial position is activated by

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a pulling movement (see Abstract, lines 3-6). Del Rosso does not disclose a third, neutral position.

Rayburn, drawn to a switch operator, discloses a switch oriented between a plurality of axial positions, wherein a first axial position is activated by a pushing movement from a neutral position and a second axial position is activated by a pulling movement from the neutral position (see column 2, line 58 - column 3, line 1). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to modify the switch of Del Rosso to have a neutral axial position, because the neutral position can be an OFF position.

8. Claims 3 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Del Rosso in view of Rayburn, as applied to claim 1 above, and further in view of the European patent application publication of Hubacher (EP 0 765 775).

As to claim 3, Del Rosso teaches all of the claimed features, as set forth above, except for an activated axial position being indicated by an illuminated symbol.

Hubacher, drawn to a switch control assembly, teaches, in Figure 2, a rotary light switch for vehicles, configured to be oriented between a plurality of fixed rotational positions and a plurality of axial positions, wherein an activated axial position is indicated by an illuminated symbol (42) (see column 3, lines 32-43 and column 3, line 59 through column 4, line 2). It would have been obvious to one of ordinary skill in the art, at the time of the invention, to use an illuminated symbol to indicate an activated axial position, because it would be easy for the driver to see that the fog lights or other device(s) are on.

As to claim 9, in the switch control assembly of Hubacher, the axial positions correspond to two different fog lamp functions (see column 3, line 56 through column 4, line 2).

***Response to Arguments***

9. Applicant's arguments, see Remarks, filed October 25, 2006, with respect to the objections have been fully considered and are persuasive. The objections have been withdrawn.

10. Applicant's arguments with respect to claims 1, 11, and 16 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hal I. Kaplan whose telephone number is 571-272-8587. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Sircus can be reached on 571-272-2800 x36. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

hik

*Stephen W. Jackson*  
12-5-06

STEPHEN W. JACKSON  
PRIMARY EXAMINER